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8 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
9 AT TACOMA

10 EUGENE A. YOUNG,

11 Petitioner,

12 v.

13 RON HAYNES,

14 Respondent.

CASE NO. 3:18-cv-05250-RBL-JRC

ORDER DENYING
APPOINTMENT OF COUNSEL

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16 The District Court has referred this petition for a writ of habeas corpus to United States
17 Magistrate Judge J. Richard Creatura. The Court's authority for the referral is 28 U.S.C. §§
18 636(b)(1)(A) and (B), and local Magistrate Judge Rules MJR 3 and MJR 4. Before the Court is
19 petitioner Eugene A. Young's motion for appointment of counsel. Dkt. 24.

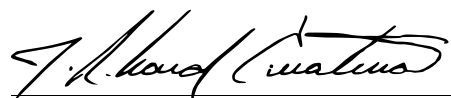
20 Although indigent defendants in criminal cases are entitled to appointed counsel, there is
21 no right to appointed counsel in habeas proceedings unless an evidentiary hearing is required or
22 unless appointed counsel is necessary for the effective use of discovery procedures. *See*
23 *Terrovona v. Kincheloe*, 912 F.3d 1176, 1181 (9th Cir. 1990); Rules Governing Habeas Corpus
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1 Cases Under Sec. 2254, Rule 8(c). The Court may request an attorney to represent indigent civil
2 litigants under 28 U.S.C. § 1915(e)(1), but should do so only under “exceptional circumstances.”
3 *Agyeman v. Corrections Corp. of Am.*, 390 F.3d 1101, 1103 (9th Cir. 2004). “A finding of
4 exceptional circumstances requires an evaluation of both the likelihood of success on the merits
5 and the ability of the plaintiff to articulate his claims *pro se* in light of the complexity of the legal
6 issues involved.” *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986).

7 Here, petitioner has not shown the exceptional circumstances necessary to warrant the
8 appointment of counsel. The Court has not ordered an evidentiary hearing or provided for
9 discovery in this case. Further, petitioner’s four grounds for habeas relief are straight forward
10 legal claims that rely wholly on the record from the state court proceedings. In addition, though
11 petitioner states that proceeding in habeas as a *pro se* petitioner is too difficult, he has thus far
12 articulated his grounds for relief and his other requests in such a way that the Court can
13 understand him. The Court does not find that petitioner is unable to adequately articulate his
14 claims at this stage in the proceedings.

15 Therefore, petitioner’s motion for counsel (Dkt. 24) is denied without prejudice.
16 Petitioner may again request counsel if he is able to show the exceptional circumstances
17 necessary to warrant the appointment of counsel. The Court will make a determination as to
18 petitioner’s habeas petition in a separate report and recommendation.

19 Dated this 27th day of February, 2019.

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23 J. Richard Creatura
24 United States Magistrate Judge